

9(H) Medical Doctors And Others Licensed By Division Of Medical Quality Of The Medical Board Of California

9(H)(a) Doctors

Bus. & Prof. C. §2221 sets forth the duties and powers of the Division of Medical Quality of the Medical Board of California, a branch of the Department of Consumer Affairs. The Division of Medical Quality has the power to discipline physicians by revocation, suspension and restriction of the physician and surgeon's medical certificate, as well as by imposing various conditions and limitations on the practice of medicine.

Regarding alcohol related offenses, Bus. & Prof. C. §2239 reads:

- (a) The use or prescribing for or administering to himself or herself, of any controlled substance; or the use of any of the dangerous drugs specified in Section 4022, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this section, or any combination thereof, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct.
- (b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Division of Medical Quality may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing may order the denial of the license when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

Title 16, Cal. C. of Regs., §1361, reads:

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code section 11400 et seq.), the Division of Medical Quality of the Medical Board of California shall consider the disciplinary guidelines entitled "Manual of Disciplinary Guidelines and Model Disciplinary Orders" (8th Edition/1999) which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Division of Medical Quality of the Medical Board of California in its sole discretion determines by adoption of a proposed decision or stipulation that the facts of the particular case warrant such a deviation--for example: the presence of mitigating factors; the age of the case; evidentiary problems.

These disciplinary guidelines are from the Medical Board of California, 1426 Howe Ave., Ste 54, Sacramento CA 95825, 916 263 2389.

A treatment program may be ordered in connection with a physician's discipline for alcohol or drug abuse. The program's requirements are set forth in Title 16, Cal. C. of Regs., §§ 1357 et seq.

The Medical Board has a website: **<http://www.medbd.ca.gov>**.